FISCAL YEAR 2007 PAYGO and
CAPITAL BUDGET TESTIMONY
DEPARTMENT OF GENERAL SERVICES
BOYD K. RUTHERFORD, SECRETARY
March 2, 2006

Public Safety and Administration

I. General Introduction

Good afternoon. Thank you, Chairwoman Cadden and the Committee for the opportunity to speak to you about the Department of General Services' Capital Budget.

For background, several years ago, the General Assembly found that individual agencies are under pressure to delay or eliminate needed physical facility maintenance and repair because of fiscal constraints which in the end results in increased deterioration and costs. To add objectivity to the process, the legislature assigned to the Department of General Services (DGS) the responsibility for establishing and reviewing a comprehensive maintenance and repair program for all public improvements statewide. DGS is also responsible for reviewing all engineering questions related to the repair and maintenance of any public improvement. DGS serves this centralized review role for new construction as well.

II. DLS recommends that DGS update the committees on the status of the Woodstock facility lease.

DGS is currently in the midst of negotiations for a new lease with the U.S. Department of Labor. DGS included $345,000 in its FY 2007 budget request to cover maintenance costs for the facility as a precautionary measure. DGS is hopeful that a new lease will be executed by October 1, 2006 and that it will not be necessary to use the special fund.

III. DLS recommends that DGS be prepared to discuss the factors that contribute to the continued growth of the capital facility renewal project backlog and provide the committees with an assessment of the appropriate annual level of funding for facility renewal projects to reduce the backlog to a manageable level within five years.

A. Factors Contributing to the Continued Growth of the Backlog

First, the State's real estate portfolio is filled with aging buildings, ranging from the Shaw House built in 1720 to the 1950's era 301 West Preston Street State Office Building. As with any facility, they need constant upkeep and with time systems fail, roofs and windows leak, and standards change.

Second, external constituencies have greater influence on spending decisions than facilities managers. Aside from these managers, the only other advocates for facilities are State employees, including elected officials. However, the external (to government) constituencies, such as those for:

- Education Spending
- Public Safety
- Bond Bills/Capital Grants
- Judiciary

are able to see that their causes move up the priority list when decision makers have to balance how to spend scarce resources.

No one party or branch of government is to blame for the State's failure to keep up with the growing backlog. Over the last ten (10) years, Governors have proposed $7.4 million more for the Capital Facilities Renewal Fund than what was authorized by the Legislature. That $7.4 million difference should not be simply subtracted from the backlog. It is probable that such funding would have allowed DGS to address more projects at earlier stages, before they reach a critical point, causing more damage and therefore increasing the cost.

Another factor affecting the growth of the backlog is the disbandment of DGS' certified inspection team. This team routinely assessed State buildings for repair. Since their elimination, DGS must rely on notice from the custodial agency of developing facility problems. An example is the extensive mold problems discovered at one of the Baltimore City Community College buildings. The extent of the problem could not have occurred over night. DGS had a similar issue at a Department of Juvenile Services facility last year. A problem that may have initially required a minor repair, if left unchecked, becomes an emergency project and therefore an expensive undertaking.

Lastly, the backlog continues to grow in part due to a lack of a dedicated funding source. Some alternative solutions are mentioned below.

B. Funding Required to Reduce Backlog

Recognizing the pressures on the Governor and the Legislature in setting funding priorities, DGS believes that a "manageable" level for the facilities renewal projects would be such that allows DGS to reach projects classified as "Priority 6". Priority 6 projects are those that have reached their normal life expectancy. An example being a twenty (20) year roof could be replaced in its twenty-first or twenty-second year but prior to the start of leaks.

Based on the current rate of increase to the backlog, DGS estimates that funding at a level of $20 million per year for five (5) years could allow the Department to begin some Priority 6 projects. With the same level of funding over a ten (10) period, DGS believes it could complete the Priority 6 projects.

It should be pointed out that the level of Capital Facilities Renewal backlog is not the complete story when considering backlogged projects. The following projects are not included in the fund being discussed today:

1. Asbestos Fund;
2. Underground Storage Tanks;
3. Operating Facilities Renewal (Object 14); and
4. Renovation and Renewal projects costing $1 million or more.

When added together, the total backlog reaches $460 million. Renovation of 301 West Preston Street building, alone, will run as high as $69 million, with nearly $20 million of that amount in asbestos remediation.

With such a backlog of projects, which did not occur overnight or within the last three (3) to five (5) years, new but not very unique ideas need to be tried. One is to expand the economic develop concept known as Transit Oriented Development (TOD) to State facilities located in prime transit corridors.

Governor Ehrlich has begun an initiative to bring TOD to the State Office Complex on Preston Street. The Maryland Department of Transportation, the Maryland Department of Planning, and DGS in cooperation with Baltimore City, and area community groups are in the process of selecting a "Master Developer" to propose ideas and lead a development effort for this location. The State anticipates continuing to maintain a significant presence in the location, probably in some combination of State owned and leased space. However, the result will likely be a reduction in the square footage of State owned office space, thereby reducing the maintenance obligation of the State.

For the past several years, DGS and the Department of Budget & Management (DBM) have had discussions on the value of leasing versus owning office space. From a facilities standpoint, leasing is a viable option. The cost of the lease is appropriated annually and the landlord is responsible for maintaining the facility. Should the facility become run down, the State would have the option to relocate.

Leasing takes away the decision makers' need to balance funding school construction or facilities maintenance. The negative is that leases are paid out of operating funds. That is a concern of DBM.

Another possible solution, discussed with DBM has been the concept of requiring all State agencies to pay some level of rent to go toward the maintenance of the buildings. These funds would likely address "Object 14" projects as the rental payments would come out of an agency General Fund budget.

Some States, such as Mississippi, are considering a similar concept, whereby they use a formula driven method to provide adequate funding for maintaining State facilities. Using the private commercial management model, tenant agencies are charged an operating rent that includes funds for normal facility renewal. Depending on the age of the facility, 5-10% of the annual rent accrues in a non-lapsing account to cover the ongoing renewal requirements such as painting, recarpeting, maintenance, and repair.

The benefit of using the formula model is that it gives a fair allocation of resources required to cover operating costs and ongoing renewal without the need for individual projects competing for scarce resources in the statewide facility renewal account. Major improvement projects would still be funded through the capital maintenance program.

In conclusion, the Ehrlich Administration is committed to developing solutions to the need for adequately funding facilities maintenance. The Departments of General Services and Budget & Management have been tasked with this responsibility. We are confident in our ability to address this issue.

DEPARTMENT OF GENERAL SERVICES

RESPONSE TO

FY 2007 CAPITAL PROGRAM ANALYSIS

BY

DEPARTMENT OF LEGISLATIVE SERVICES

SENATE BUDGET & TAXATION COMMITTEE
SUBCOMMITTEE ON THE CAPITAL BUDGET

MARCH 9, 2006

Secretary
Boyd K. Rutherford

Deputy Secretary
Steve Cassard

Assistant Secretary
Facilities Planning, Design & Construction
Thomas R. Genetti

Department of General Services
Response to the Budget Analyst Recommendations

2100 Guilford Avenue – Addition (Baltimore City)

The Department of General Services concurs with the recommendation to approve the $1,800,000 GO Bond request for the supplement to previous appropriations to design and construct an addition to the State Office Building at 2100 Guilford Avenue.

We would like to point out the last statement on page 2 of the analysis, which indicates that the current request, regarding the construction bid award date of June 2006, differs from the April 28, 2006 date as reported in the December 30, 2005 letter. Essentially, the April date is intended to be the date that the bids are opened and the June date is the date anticipated for the construction contract award at the Board of Public Works.

The impact of the delays on the construction and renovation timeline is substantial in that the estimated costs of the various phases of the project have increased dramatically due to the spiraling construction market conditions. The addition was initially scheduled to be constructed in the fall of 2004 with an estimated cost of approximately $4.4 M. The current estimate to build it now is over $5.9 M. The phased renovation work estimate for the main building has increased from approximately $13.6 M to $18.9 M. This is not a result of any significant change in the intended scope of work but more so of the delays caused by the fund restrictions imposed until we met the concerns of the local community.

6 St. Paul Street – Elevator Replacement/Renovation (Baltimore City)

The Department of General Services concurs with the recommendation to approve the $2,313,000 GO Bond request to replace and/or renovate the elevators in the William Donald Schaefer Building at 6 St. Paul Street.

The scope of this work will consist of upgrading the ten elevators that serve all of the building floors above ground and the garage levels as well. The work needs to proceed as soon as possible because of existing problems and conditions. We've had to replace cables on elevator #5 and the cables for elevators #1, #6 and #7 all need cable replacement. The number of calls for trapped passengers is above normal, with approximately 20 occurring between 12/04 and 2/06. The Westinghouse equipment for the high-rise elevators has been discontinued for some time and spare parts cannot be found.

We are currently preparing a facility program plan, which will include a detailed condition analysis, and will provide it to DBM very shortly.

Asbestos Abatement Program – Statewide

The Department of General Services concurs with the recommendation to reduce the $2,000,000 GO Bond request by $200,000 to provide funds to abate asbestos in various State facilities.

Underground Heating Oil Storage Tank Replacement Program – Statewide

The Department of General Services respectfully disagrees with the recommendation to reduce the $1,000,000 GO Bond request by $500,000 to provide funds to remove, replace, or upgrade State-owned underground heating oil storage tanks.

The reduction is based on the observation that the total project list is comprised mostly of projects located at Department of Natural Resources (DNR) facilities. We agree with the DLS position that the DNR related projects could be funded through that department's Critical Maintenance Program, which is funded using an allocation of State transfer taxes.

However, the FY 2007 proposed project list does not include any tanks at DNR facilities. The decision to transfer the funding responsibility to the transfer tax should be considered for the FY 2008 budget cycle.

Also, one of the main reasons that we worked to convince DBM to put all heating oil tanks together as a State-wide capital program was to ensure the use of the Construction Contingency Fund (CCF) if necessary. Until a tank is removed, the method and extent of remediation efforts are unknown. When contaminated soil or water is discovered, it must be dealt with immediately. Delayed remediation could result in spreading contamination, which leads to greatly increased costs and more extensive environmental degradation.

With a reduction of $500,000, DGS is left with limited ability to proceed with the projects. Obviously, the longer a tank stays in the ground, the more potential there is for problems to erupt which ultimately leads to higher costs.